

REMARKS

By this Amendment, claim 1 has been amended to include the subject matter recited in claims 2 and 3 (those claims being canceled without prejudice or disclaimer) and claims 4 and 5 have been amended to correct the resulting claim dependencies. Claim 6 has been amended to also includes subject matter corresponding to dependent claim 2, the subject matter of claim 3 being inherent in claim 6. Claims 1 and 4-11 are pending.

REJECTION UNDER 35 U.S.C. 112, FIRST PARAGRAPH

The Office Action rejected claims 10 and 11 under 35 U.S.C. 112, first paragraph because the subject matter recited therein is allegedly not supported by the originally filed application. Applicants traverse the rejection because, as stated in the previously filed response, “support for these new claims is provided in the specification generally and, more specifically, in Figure 1, and at page 4, line 15 to page 5, line 13.”

PRIOR ART REJECTIONS

The Office Action rejected claims 1-4 and 6-8 under 35 U.S.C. 103(a) as being unpatentable over Joensuu et al. (U.S. Pat. 5,966,653; hereafter “Joensuu”), Alperovich et al. (U.S. Pat. 6,459,680; hereafter “Alperovich”) and Tiedemann et al. (U.S. Pat. 6,335,922; hereafter “Tiedemann”) and rejected claims 5 and 9 under 35 U.S.C. 103(a) as being unpatentable over Joensuu, Alperovich, Tiedemann and Dezonno (U.S. 6,449,356).

TRAVERSAL OF PRIOR ART REJECTIONS BASED ON FAILURE TO TEACH OR SUGGEST ALL CLAIM FEATURES

Applicants traverse the rejections because the cited prior art references, analyzed individually or in combination, fail to teach or suggest all the features recited in the rejected claims. For example, no combination of the cited prior art teaches or suggests the claimed method including for performing a USSD transfer, wherein the USSD transfer takes place on a fast channel if the mobile station is involved in a call, and otherwise on a slow channel; the method comprising: determining the amount of data to be transmitted in the USSD transfer; and if the amount of data to be transmitted in the USSD transfer is likely to exceed a predetermined threshold, if the mobile station is not involved in a call, directing the mobile station to call mode for performing the USSD transfer on the fast channel; and directing the mobile station into call mode by initiating a call attempt, wherein the party that initiates the

USSD transfer also initiates the call attempt,” as recited in independent claim 1 and its dependent claims. Similarly, no combination of the cited prior art teaches or suggests a mobile station including “means for performing a USSD transfer between itself and a cellular communications network, wherein the USSD transfer takes place on a fast channel if the mobile station is involved in a call, and otherwise on a slow channel; a first logic for determining the amount of data to be transmitted in the USSD transfer; a second logic initiating a call attempt for switching the USSD transfer to the fast channel if the amount of data to be transmitted in the USSD transfer is likely to exceed a predetermined threshold and if the mobile station is not involved in a call; and a third logic for directing the mobile station into call mode by initiating a call attempt” as recited in independent claim 6 and its dependent claims.

The Office Action alleged that a hypothetical combination of Alperovich and Tiedemann teach determining an amount of data to transfer (see, paragraph 2 of the Office Action). However, that analysis fails to recognize that: (1) USSD transfers are quite small (for lengthy transfers one would open a connection-oriented connection), and the prior art does not provide any motivation to determine an amount of data to transfer in the context of such small transfers; and (2) there is no teaching or suggestion of how a USSD transfer can be accomplished on a fast channel unless a mobile station would happen to have an ongoing call. As a result, one of ordinary skill in the art would not have found it obvious that the fast channel could be established by initiating a call attempt (as recited in previously pending claim 2 and now recited in both independent claims 1 and 6).

The Office Action recognized that Joensuu fails to remedy this deficiency because Joensuu fails to teach or suggest both determining an amount of data to be transmitted in an USSD transfer; and if the amount of data to be transmitted is likely to exceed a predetermined threshold, and if a mobile station is not involved in a call, directing the mobile station to call mode for performing the USSD transfer on a fast channel.

Similarly, Dezonno fails to remedy this deficiency of Alperovich, Tiedemann and Joensuu because Dezonno merely teaches processing multi-media telecommunication transactions by a call processing center.

Therefore, the combined teachings of the cited prior art references fail to teach or suggest all the features recited in the rejected claims. Accordingly, the prior art rejections of claims 1 and 4-11 are traversed and those claims are allowable.

**TRAVERSAL OF PRIOR ART REJECTIONS BASED ON HINDSIGHT ANALYSIS
AND INAPPROPRIATE CITATION OF TOO MANY REFERENCES**

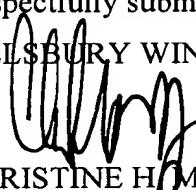
Further, Applicants maintain the traversal of the prior art rejections because the Office's rejections require reference to an excessive number of references. In response to Applicants' previously submitted arguments along this line, the Office Action has now asserted that the large number of the combined references is justified as they all "relate to the same field of endeavour and solve similar problems." Applicants submit that the Office Action has unreasonably stretched the concept of "same field."

Prior to Applicants' conception of the claimed invention, the prior art merely utilized USSD transfers for very short and simple transfers, such as manual call routing, in which applications the transfer speed was of no concern. Only as a result of Applicants' invention, can USSD be used for longer transfers; thus, only as a result of Applicants' invention, can the USSD transfer be considered to lie in the "same field" as the prior art cited by in the Office Action. Accordingly, the rationale set forth by the Office Action is nothing more than hindsight because the present invention did not lie in the field of data transmission, in which the amount of data to be transmitted is of any concern, until the invention was made.

All rejections and objections have been addressed. It is respectfully submitted that the present application is now in condition for allowance, and a notice to that effect is earnestly solicited. Should there be any questions or concerns regarding this application, the Examiner is invited to contact the undersigned at the below-listed telephone number.

Please charge any fees associated with the submission of this paper to Deposit Account Number 033975. The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Respectfully submitted,
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